

## 2003 ASSEMBLY BILL 52

AN ACT *to renumber and amend* 786.37; *to amend* 786.36 (1) (intro.), 786.36 (1) (b), 786.36 (1) (c) and 786.37 (title); and *to create* 786.36 (1m) and 786.37 (2) of the statutes; **relating to:** changing the name of a minor.

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*Analysis by the Legislative Reference Bureau*

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1       **SECTION 1.** 786.36 (1) (intro.) of the statutes is amended to read:  
2       786.36 **(1)** (intro.) Any resident of this state, whether a minor or adult, may  
3       upon petition to the circuit court of the county where he or she resides and upon filing  
4       a copy of the notice, ~~with proof of publication, as required by~~ under s. 786.37 (1), with  
5       proof of publication, may, if no sufficient cause is shown to the contrary, have his or  
6       her name changed or established by order of the court. ~~If~~ Subject to sub. (1m), if the  
7       person whose name is to be changed is a minor under the age of 14 years, the petition  
8       may be made by whichever of the following is applicable:

**ASSEMBLY BILL 52****SECTION 2**

**SECTION 2.** 786.36 (1) (b) of the statutes is amended to read:

786.36 **(1)** (b) The guardian or person having legal custody of the minor, if both parents are dead or if the parental rights of both parents have been terminated by judicial proceedings.

**SECTION 3.** 786.36 (1) (c) of the statutes is amended to read:

786.36 **(1)** (c) The minor's mother, if the minor is a nonmarital child who is not adopted or whose parents do not subsequently intermarry under s. 767.60, ~~except that the father must also make the petition unless his rights have been legally terminated~~ and if paternity of the minor has not been established.

**SECTION 4.** 786.36 (1m) of the statutes is created to read:

786.36 **(1m)** (a) 1. Subject to subd. 2., the name of a minor under 14 years of age who has 2 living parents may be changed on the petition of one parent if, in addition to filing a copy of the notice required under s. 786.37 (1), with proof of publication, the petitioning parent files proof of service as required under s. 786.37 (2) and the nonpetitioning parent does not appear at the hearing on the petition or otherwise answer the petition.

2. If the nonpetitioning parent cannot be found or provided with notice, the name of a minor under 14 years or age who has 2 living parents may be changed on the petition of one parent if, in addition to meeting the filing requirements under subd. 1., the petitioning parent has made a reasonable attempt to find and provide notice to the nonpetitioning parent, but with reasonable diligence the nonpetitioning parent cannot be found or provided with notice, and the nonpetitioning parent does not appear at the hearing or otherwise answer the petition.

(b) If the nonpetitioning parent appears at the hearing on the petition or otherwise answers the petition and shows that he or she has not abandoned the

**ASSEMBLY BILL 52**

1 minor, as described in s. 48.415 (1) (a) 3., (b), and (c), or failed to assume parental  
2 responsibility for the minor, as described in s. 48.415 (6), the court shall require the  
3 consent of the nonpetitioning parent before changing the name of the minor.

4 **SECTION 5.** 786.37 (title) of the statutes is amended to read:

5 **786.37 (title) Change of name, notice of application petition.**

6 **SECTION 6.** 786.37 of the statutes is renumbered 786.37 (1) and amended to  
7 read:

8 786.37 (1) Before ~~applying to~~ petitioning the court ~~for changing or establishing~~  
9 to change or establish a name, the applicant petitioner shall publish a class 3 notice  
10 under ch. 985 stating the nature of the application petition and when and where the  
11 application petition will be made heard.

12 **(3)** This section does not apply to the name change of a minor if the parental  
13 rights to the minor of both parents have been terminated ~~and~~, guardianship and  
14 legal custody of the minor have been transferred under subch. VIII of ch. 48, ~~and~~ the  
15 minor has been placed in a permanent foster home or a permanent treatment foster  
16 home, ~~where~~ and the guardian and legal custodian of the minor have petitioned to  
17 change the minor's name to the name or names of the minor's foster parents or  
18 treatment foster parents.

19 **SECTION 7.** 786.37 (2) of the statutes is created to read:

20 786.37 (2) If the petition is for the name change of a minor under 14 years of  
21 age who has 2 living parents and if the petition is being made by one parent of the  
22 minor, the petitioner shall, in addition to publishing the notice under sub. (1), serve  
23 a copy of the notice and petition on the nonpetitioning parent in the same manner  
24 as a summons is served under s. 801.11 (1).

25 **SECTION 8. Initial applicability.**

2 effective date of this subsection.

3 (END)